

E 340
.L5 R16

Copy 2

LIBRARY OF CONGRESS



00005025746

HUGH SWINTON LEGARÉ.

Gift
American Historical Review

Feb 1900

HUGH SWINTON LEGARÉ.¹

I.

LEGARÉ'S YOUTH.

THE career of Hugh Swinton Legaré was that of a scholar in politics. It is scarcely too much to say that of the Southern statesmen of the old régime he was not only the most gifted but by all odds the best acquainted with the various arts that go to make up a well-informed man of the world. As lawyer, orator, author, statesman, diplomatist, and cabinet officer—for he was all these in the brief life vouchsafed him—we shall find him always exhibiting the same devotion to high ideals, the same independence of judgment and of action that formed one of the leading traits of his character and won for him the confidence and esteem even of those who might have differed from him in politics. These moral qualities he acquired partly through inheritance, partly by reason of the circumstances surrounding his early life.

Of Scottish extraction on his mother's side, he gained from his father a Huguenot name as well as many of the characteristics of that sect. Born at Charleston, S. C., January 2, 1797, Legaré was a great-great-grandson of Solomon Legaré, a French Huguenot, who emigrated to America when about twenty years of age on account of the religious controversies that shook his native land throughout the greater part of the seventeenth century.² According to family tradition, the father of the Huguenot was a Roman Catholic of liberal tendencies whose home was on the Loire, not far from the town of Lyons. With him lived his wife and four sons, all of whom, save

¹The author begs to express his grateful appreciation to Rev. Shirley Hughson, of Westminster, Md., Mr. Yates Snowden, of Charleston, S. C., and James M. Barnard, Esq., of Boston, for the generous aid extended him in the preparation of this sketch.

²The French Protestants were first called Huguenots in 1560. The word has been variously explained, but is doubtless to be traced to some obscure local source.—*Baird's "Rise of Huguenots,"* Vol. I., pp. 397, 398.

Solomon, the youngest, were his children by a former marriage; but, while the three older boys adhered to the orthodox faith, Solomon, like his mother, became a Protestant, or "Bible Christian," as the French of that day put it, and, when attending college at Lyons, was obliged to flee the country. This was shortly before Louis XIV. at Fontainebleau, on October 17, 1685, had revoked the edict of Nantes, and thus ended the long struggle for religious toleration in France. Arriving at Bristol, England, the young refugee won the heart of an English girl of rare piety, to whom he was shortly afterwards married. His father having died in the meantime, his mother left France, and after numerous exciting experiences joined the young couple by appointment in Bristol. Madame Legaré had for months been preparing for her flight. Her husband not only aided her in this work, but also arranged to send his older sons to Quebec.⁴

It was while the Legarés were thus sojourning in England that numerous bands of their sect were beginning to settle on the southern coast of the then recently established province of Carolina. This name had for upwards of a century been a very dear one to their co-religionists on account of the ill-starred colonial experiments of Coligny, Ribault, and other French dissenters. Accordingly, the Legarés naturally thought of that New France the Southern Pilgrims were striving to erect on the same foundations a New England had already been reared by Pilgrims of quite another stock, and in about the year 1686 we find the family already settled in the six-year-old village of Charles Town. There, with the capital supplied by his mother, Solomon Legaré, by patient industry, built up a fortune.⁵

So little has been written of the Huguenots that one would fain linger over the many beautiful incidents connected with their immigration to America. That they have enriched

³ "Biographical Sketches of the Huguenot Solomon Legaré and of His Family." By one of his great-great-granddaughters, Mrs. Eliza C. K. Fludd. P. 19. Charleston. 1886.

⁴ Many descendants of these still reside in Canada. *Ibid.*, pp. 23, 24.

⁵ Legaré Street in Charleston is named for one of his descendants.

our national life in a manner far out of proportion to their numbers is a fact that will scarcely be questioned.⁶ Retaining in South Carolina for some years their language and customs, it took them a long time to overcome the prejudices of their English associates; but eventually all traces of antipathy disappeared, and the two nationalities got on well together. This disappearance of all traces of ancient strife was no doubt hastened in large measure by the revolutionary war.

On the outbreak of that struggle many of the descendants of the Huguenot Legaré cast in their lot with that of the colonists. Indeed, it has been computed that from first to last, and including three sons, eight grandsons, three great-grandsons, and numerous other members of his family, as many as thirty-two of his descendants were in the American army.⁷ Of these, several were officers. Thomas Legaré, grandfather of the subject of this sketch, was among this number. A loyal upholder of the patriotic side in that conflict, he suffered unusual hardship; but whether as member of the revolutionary army or as delegate to the State Assembly, he never wavered in his devotion to the cause of independence. Both he and his wife lived for many years after the close of the war. Of four children, two were sons, Thomas and Solomon. It was the latter who was the father of Hugh Swinton Legaré. Marrying Mary Swinton, descendant of a Scotch surveyor-general the British government had sent out to South Carolina in the early part of the eighteenth century, Solomon Legaré died of a lingering attack of fever shortly after the birth of Hugh, leaving to the care of his young widow the infant son and two little daughters.⁸ Of Solomon Legaré, little seems to be known beyond the fact that his parents were devoted to him. Indeed, it is said that his untimely end so preyed upon the

⁶Three of the descendants of the Huguenots were Presidents of the Continental Congress—namely, Laurens, Jay, and Boudinot.—*Ramsay's "South Carolina," Vol. I., p. 8.*

⁷Mrs. Fludd, p. 78.

⁸Afterwards Mrs. Bryan and Mrs. Bullen. The latter eventually moved to Iowa.

mind of his father that the old gentleman soon died of grief.

A woman of rare nobility of character, the mother of Hugh Swinton Legaré consecrated her entire life to the care and training of her three children, all of whom reached maturity and reflected the highest credit on her devotion. One of the most striking elements in the character of Legaré was his affection for his mother. Some of his greatest achievements, for example, appear to have gratified him largely because of the happiness he knew they would bring to her who had nurtured, guided, inspired him throughout his early years, and who breathed her last in his arms at Washington when his fame was at its summit. Scarcely less tender was his devotion to his sisters, especially Mary, to whom many of his letters are written.*

It was while Legaré was in his fifth year that he met with a misfortune which not only threatened his life but deeply affected his whole subsequent career. Having been vaccinated with apparently unhealthy virus, the poison settled in the joints of his arms and legs. Bad medical attention aggravated the trouble, and for months his life hung by a thread; but the careful nursing he received from his mother finally pulled him through, although Mrs. Legaré for a long time was obliged to carry him about in her arms. Under these distressing circumstances he received his first instruction when his mother introduced him to the alphabet. Even after his recovery, however, it was not until his life in the country, several years afterwards, that he began to grow; but only the upper part of his body expanded, and as long as he lived his legs remained deformed, while one arm was always more or less stiff. This latter defect Legaré, with characteristic determination and perseverance, finally overcame to such a degree that he could use both arms with ease when gesticulating; and in like manner he partially concealed the deformity of his legs by habitually wearing a frock-coat. But his physical infirmities always gave him a

* "Writings of Hugh Swinton Legaré." Edited by his sister, Mrs. Mary Bullen. 2 vols. Charleston. 1846.

rather peculiar appearance, and we are told that there was a marked contrast between his size when seated with that which he presented when on his feet. His head, however, was well-proportioned, and even as a boy his manners were quiet, thoughtful, and well calculated to develop into that austerity which in later years marked the student, the reserved man of books.

More attention has been devoted to these outward appearances of Legaré than would otherwise have been done for several reasons. In the first place, this painful experience of his early years cut him off from many of those outdoor sports which make up the chief joys of a normally constituted lad, and, added to the inspiration of his mother, caused him to turn to intellectual pursuits with an ambition that never afterwards forsook him. To the same bodily defects may be traced, moreover, a certain hesitating, shrinking, sensitive disposition which at times pained and disappointed even his closest friends. And here and there in his writings, especially in his letters, one can detect a certain indescribable note of sadness, no doubt the outcome of a deep-seated morbidness.

As has been already remarked, Legaré received his first instruction from his mother, but he was soon sent successively to several private schools, his first instructor being one Master Ward, President of Ward's Seminary.¹⁰ His next teacher was the famous Father Gallagher, a graduate of Dublin, and a man well grounded in the classics, whose school was limited to fifteen pupils.¹¹ He seems to have imparted to Legaré that fondness for Latin which he ever afterwards displayed, and predicted for him a future of more than ordinary success. After remaining at this school for several years, the lad entered the high school, now the College of Charleston, which was then under the guidance of Mitchell King, subsequently renowned as a local judge of rare probity of character. The friendship thus formed between stu-

¹⁰ In 1803 this school was next door to Ruddock's English School. See advertisement in *Charleston Courier*, July 25, 1803.

¹¹ *Charleston Courier*, July 25, 1805.

dent and preceptor continued long afterwards, and when Legaré finally took up the study of the law it was under the guidance of his old high school instructor, Judge King. The three years spent at the high school were far from fruitless ones. They especially developed his fondness for literature.

It was now, however, that Mrs. Legaré decided to send her son, much against his wishes, to Willington Academy, a well-known preparatory school for boys in Abbeville District, not far from the Savannah River. Its principal was the Rev. Dr. Moses Waddell,¹² a Presbyterian divine who at that time figured very prominently as an educator. Under him many leading Southerners were prepared for college, including such men as McDuffie, Harper, Calhoun, Petigru, and other distinguished South Carolinians. But Legaré does not seem to have been favorably impressed with his new teacher, and besought his mother to allow him to return home. Her good sense, however, would not permit her to accede to his wishes, and teacher and pupil became reconciled to such a degree that when the young man left Willington for the South Carolina College, at the age of fourteen, he had overcome much of his dislike for Dr. Waddell. Indeed, he never failed to credit that old South Carolina Arnold with the knowledge and fondness for Greek which he acquired at Willington and subsequently perfected at Columbia.

When Legaré entered the Sophomore class at the South Carolina College, December 11, 1811, that institution, so famous in the history of the State, had already passed the tentative, experimental stage and become an assured success. Its organization, to be sure, had been discussed prior to the message Gov. Drayton addressed to the Legislature in 1801, but its organization and development may be ascribed in great measure to that document. On that occasion, moreover, Drayton employed language which, unfortunately, may still be applied to more than one Southern State. "Were a

¹² Dr. Waddell afterwards accepted the presidency of Oglethorpe University, now the University of Georgia.

person to look over the laws of the State," declared the Governor, "he would find that five colleges are incorporated therein; and did his inquiries proceed no further, he would naturally imagine that we had already arrived at an enviable excellence in literature." He then went on to show that two of these institutions had been discontinued through want of funds, and that the others were little above grammar schools, notwithstanding their power to confer degrees. His remedy was a simple one. It lay in the creation of a State-endowed institution at Columbia, or some other central and healthy point, where "the friendships of young men would thence be promoted and strengthened throughout the State, and our political union be much advanced thereby."¹³

The above excerpt from Drayton's message refers to the antagonism then prevailing between the two sections of South Carolina, locally designated the "low country" and the "up country." In most of our States there is a marked contrast between the people who inhabit different parts of the same commonwealth. Differences in point of time of settlement, diversity of soil and climate, and racial contrasts among the settlers themselves, acting and reacting on the minds, occupations, and institutions of the people, tend to accentuate original points of divergence, thus widening instead of bridging the gulf between them. It would scarcely be an exaggeration to say that in the case of South Carolina the difference between the so-called "up country" and "low country" was more pronounced than the sectional divisions of any other State, with the possible exception of Virginia. Notwithstanding better means of communication, this distinction has not yet been entirely obliterated. By the Constitution of 1790 the center of political gravity was shifted from the coast to the interior. The seat of government had already been transferred to the new town of Columbia—a name that indicates the then current federal proclivities of the commonwealth.

It was the cherished hope of Drayton and others that

¹³ LaBorde's "History of South Carolina College," pp. 19, 20.

a State-endowed college would inaugurate a better feeling between the two sections of population—a hope subsequent events pushed far toward the desired goal; for after the act of incorporation, passed in 1801, the organization of the institution went rapidly forward, and within a few years its doors were thrown open to students. In the selection of its first president the trustees, mainly State officials, acted with unusual sagacity, and induced Rev. Jonathan Maxcy, D.D., a native of Attleboro, Mass., to accept the post. Enjoying at that time a national reputation, Dr. Maxcy, as president first of Brown, and subsequently of Union on the death of Jonathan Edwards, was just the man the work at Columbia needed. And from his election in 1804 he not only directed the policy of the South Carolina College, but stamped upon its whole history the impress of his strong personality.¹⁴ He gathered around him an able faculty, composed at first largely of trained scholars from northern colleges, and planned a course of instruction which by later development made the institution to which he gave so many years of his life one of the best of its kind in the country. Hence, when Legaré entered the college it had passed the experimental point, and was in the full tide of its success.

On entering college, Legaré soon discovered that his reputation as a youth of good parts had already preceded him, and he was careful to let it become known that he would compete for all the academic honors. Hence he lived the life of a recluse during the first part of his college career, but mingled more freely with the student body toward the end of his course.¹⁵ His favorite studies, as well as various other facts connected with his student days, are faithfully described by Preston, his friend at college and the devoted comrade of succeeding years:

He mainly devoted himself to the Departments of Classical Literature and Philosophy, and he zealously engaged in the discussions of the debating

¹⁴ It is interesting to note, in this connection, the points of resemblance between the buildings of the South Carolina College and the older group of buildings at Brown.

¹⁵ *Southern Review*, N. S., Vol. VII., pp. 124-130.

societies¹⁶ in order to practice himself in the art of speaking. These studies were a passion with him. His attention to the exact sciences, however, seemed to be stimulated rather by an ambition and a sense of duty than a particular inclination. His recitations in mathematics, chemistry, and natural philosophy were always good—equal to the best in his class—but his heart was in the classics.¹⁷

In Legaré's time the course of studies in the South Carolina College extended over a period of four years, and there was the time-honored division of students into freshmen, sophomores, juniors, and seniors.¹⁸ It should be added that a good entrance examination was also required. But his habit of reading took him into fields far more extensive than those afforded by his instructors, and he early found his way to the State library, which at that time contained ten thousand volumes. It is said that he knew Homer almost by heart, and could declaim passage after passage from Pindar, Demosthenes, Plato, Cicero, and other classical writers.¹⁹ Nor did he neglect modern literature, although he turned his attention mainly to English and French authors. We are also told that at college he devoted seven hours daily to class work and recitations, eight hours to his own favorite studies, and gave the rest of the day to meals and slumber.²⁰

It was quite natural that every one should have looked upon Legaré as a prodigy. Nor is it surprising to learn that when he graduated, December 5, 1814, at the head of a class of forty-five, his fame had spread throughout the State, and expectations regarding his future were unusually high. We can get some opinion of his tastes from the subject of his valedictory address, which was "The Influence of the Imagination on Human Happiness." Among the members of his class were John Boykin, George Chisholm, Frederick G. Fraser, John Gaillard, David R. W. McIver, Robert A. Maxwell, Philip Porcher, Henry Ravenel, Waddy Thomp-

¹⁶ He was a member of the Clariosophic Society. (O'Neill's "Bench and Bar of South Carolina," Vol. II., p. 35.)

¹⁷ Eulogy on Legaré. Ex-Senator W. C. Preston, afterwards President of the South Carolina College. Charleston, 1843.

¹⁸ W. J. Rivers, in *Charleston News and Courier*, July 25, 1876.

¹⁹ *Southern Review*, Vol. VII., p. 133.

²⁰ *Ibid.*

son, and Henry Trescott,²¹ some of whom afterwards rose to distinction. In spite of the bad weather,²² the newspaper accounts of the commencement exercises report a good crowd in attendance, including members of the Legislature and various State officials.²³ Legaré's valedictory appears to have been a production of unusual merit.

I remember hearing Judge Huger say [declares Gov. Perry] that when Legaré graduated he went to the commencement out of respect to the college and to see the ladies. Whilst chatting with some of them his ear was attracted by a sentence in Legaré's valedictory. He became interested, and his attention was riveted on the oration till it was ended. He inquired who this young man was, and asked one of the professors who wrote his valedictory for him. The professor replied that Legaré had written it himself, and that he was the only man in the whole college who could have written it.²⁴

Returning to Charleston after his graduation, Legaré began the study of the law under Judge King. During the three years he was thus preparing himself for his profession he kept up his study of the classics, and at the same time endeavored to cultivate his voice in a manner that would have been worthy of Demosthenes. Meanwhile, when the three years' novitiate in the law office was over, he was wise enough to be too much dissatisfied with his attainments to apply for admission to the bar, but determined to further prosecute his studies abroad. Accordingly, with this end in view, he sailed from Charleston to Bordeaux in May, 1818, on the *Portia*, Capt. Silliman, with the intention of entering the university at Göttingen; but on his arrival in France, three months later, he changed his plans on account of the revolutionary movement in Germany, and determined to go to Edinburgh. During his brief sojourn in Paris his talents, as well as his mastery of the French language, won for him hosts of friends, whose number was still further increased when he entered the Scotch university. There he took up the study of Roman law under Irving, and found time to

²¹ Henry Trescott, second honor man, was salutatorian.

²² *Charleston Courier*, January 6, 1815. The commencements of the college were long held in December.

²³ The time may have been so arranged in order to let the legislators attend.

²⁴ Perry's "Reminiscences of Public Men," pp. 252, 253.

enter the classes in natural philosophy and in mathematics, under Playfair and Murray, respectively.²⁵ It seems that the recitations in the class of the civil law—the basis of Scotch jurisprudence—were then conducted in Latin, a survival of a mediæval custom, and that Irving was a man of ordinary talents. On one occasion, so we are informed, a discussion arose between Legaré and his preceptor regarding the construction of a doubtful passage of the text, when the former so ably supported his own interpretation of it as to elicit the approval of the entire class. Indeed, the lecturer felt called upon to send him next day a written argument on the subject.²⁶ Meanwhile, the young Carolinian was enjoying to the utmost the atmosphere of a city which, in addition to its renowned university and other historic monuments, was becoming perhaps even more famous through the pen of Scott. It was while here, moreover, that he met George Ticknor, afterwards to become a professor at Harvard, and a warm friendship arose between the two young men—a friendship that lasted until Legaré's death at Ticknor's residence, in Boston, a quarter of a century afterwards. At this time the American character appears to have been considerably raised at Edinburgh by the coterie of young men from the United States who were studying there with Legaré and Ticknor.²⁷ But Legaré infers from one or two unguarded expressions contained in letters from his mother that the plantation needs more careful attention, and soon makes up his mind to return home. Accordingly we find him once more in Charleston, after an absence of two years abroad, his mind liberalized, cultivated, strengthened, by a continental tour as well as by the course at Edinburgh.²⁸

On his return home, in 1820, Legaré discovered that the ancestral plantation, on John's Island, had been so badly

²⁵ Sketch of Legaré, by E. W. Johnson, in the edition of Legaré's writings published by his sister.

²⁶ *Ibid.*

²⁷ Letter of Mrs. Grant, Ticknor's "Life, Letters, and Journals," Vol. I., p. 278.

²⁸ "Journal of the Rhine," Legaré's collected writings.

managed that nothing save the most prudent measures could save his mother's affairs from irretrievable ruin, and the entire family was therefore at once removed to the country seat. Thus among the slaves, and in the beautiful semi-tropical environment of the South Carolina coast, he began earnestly the work of restoring the impaired estate, and found pleasure in the cultivated state of the island society. Eighty years ago such a life was one of the most beautiful to be found in America. The people inhabiting the islands that dotted the coast still looked fondly across the sea, commerce was active, and good crops, especially rice, and the long-fleeced sea-island cotton were produced. In groves of palmetto, live oak, and pine were the mansions of the planters, often constructed of brick, and owned for generations by the same family; while some distance off were the quarters of the negroes—small villages of log cabins or frame cottages, whose occupants were under the usually mild sway of their owners. It is scarcely remarkable to find that these little communities were well-nigh autonomous and self-supporting; for the sea, as well as the streams of the mainland, abounded in fish, and it was not difficult to raise hogs, cattle, and other live stock in the canebrakes. Each family of blacks, moreover—for custom recognized such ties—had its own "patch" or plot of ground, whose produce was virtually its own, and could raise its own poultry as well as weave its own cloth—all of which were enjoyed by a sort of right resembling the *peculium* of the Roman slave.

Mention has been made of these facts in order to throw light on the environment of Legaré at this time. The love of this people for South Carolina—ever to them Carolina—amounted to a passion which was approached only by their love of that most historic of New World towns, Charleston. Under the liberal commercial policy that had prevailed before the Napoleonic era and the second war with Great Britain, the planters had been able to export their produce and bring back in exchange such necessities and luxuries as they might have desired, and that, too, at a fairly reasonable price. Charleston had thus risen into prominence as a com-

mercial and intellectual center, and those engaged in planting had thriven well under such a system. The acquisition of Florida by the United States in 1819, moreover, checked border outrages and threw open to settlers a vast and rich stretch of country. The series of tariff measures that followed in the wake of the war of 1812 not only changed the situation, but fostered a spirit of unrest, disappointment, and irritation. Agriculture and commerce met the rising tide of industrialism, and were engulfed.

To a young man like Legaré, whose studies and inclinations and environment were well calculated to draw him into public life even if his ambition had not already led him to dream of such a career, the opportunities for entering politics were accordingly highly favorable. His rare attainments, moreover, caused his neighbors early to sound him on the subject, and he had not been long on his plantation before he was elected to a seat in the lower house of the State Legislature. This occurred in the autumn of 1820, and for the next two years he represented St. John's Parish, Colleton.²⁹ As the sessions of the Legislature then lasted only a month, he had few occasions for displaying his powers. The task of legislating for an almost purely agricultural State was, moreover, an exceedingly simple one. In spite of his youth, however, Legaré applied himself diligently to the routine work intrusted to him, and whether in the committee room or on those rare occasions when he felt called upon to express his opinions he acquitted himself well. But it cannot be said that he made any decided impression on his fellow-legislators. The Legislature of 1820 convened November 27, and Legaré found that he was one of seventy-five new members. Little business was transacted beyond the election of Thomas Bennett as Governor and William C. Pinckney as Lieutenant Governor. The efforts in the direction of internal improvements were strong, however, and the national spirit seemed everywhere dominant.

²⁹ The parish system obtained in the "low country," while the political unit of the "up country" was the "district."

II.

LEGARÉ, THE STATESMAN.

IN about 1821 Legaré removed to Charleston, and began the practice of law.³⁰ The bar of that city was then one of the most brilliant in the entire country, numbering among its members such men as Thomas S. Grimké, the able jurist and good though at times bizarre man of letters—a citizen, however, who was always interested in every movement calculated to improve his community, State, and country; James L. Petigru, Grimké's superior in point of intellect, at one time Attorney-General of the State, and a man who considerably influenced Legaré; Alfred Huger; Mitchell King; the Pinckneys; the Haynes; William Drayton; and others more or less interested in law and politics. That Legaré should have failed to secure many clients when he first began to practice his profession, and that his success at the bar was scarcely at any time commensurate with his juristic training, will surprise few who have observed the career of any young man of scholarship placed under similar circumstances and wholly lacking in that knowledge of men so essential to such a career. It may have been a recollection of this experience that caused him in after life to express the regret that we do not in this country recognize the twofold division of lawyers into barristers and solicitors, a division which certainly has much in it to attract the attention of jurists. Be that as it may, however, few who can appreciate Legaré's attainments will be disposed to question Preston's remark that "no man in our country had brought to the business of life, however elevated, a more thorough preparation." But he undoubtedly suffered at first because of his reputation as a scholar, and his lack of progress at the Charleston bar during the first years of his professional career may be traced to that fact

³⁰He was admitted to the Charleston bar January 12, 1821.

rather than to any petty jealousy on the part of his associates.

It was thought that one so much interested in literature could not be profoundly acquainted with the intricacies of the law. Nor had Legaré's physical infirmities and sedentary life been calculated to enable him to adapt himself to his new surroundings. But it would be a mistake to fancy that he was either ignorant of the principles of jurisprudence or regarded it as a mere pastime, an appendage to literature. Throughout his career, first to be the best lawyer in Charleston and then of the entire country was his most cherished ambition. That he succeeded is abundantly evident not only from his scattered writings and speeches, but also from Judge Story's remarks made shortly after Legaré's death, when the whole country was mourning his loss.

I who heard his arguments [said Story] know that he devoted himself to the common law with a wise perception of its defects, and a purpose to ameliorate them with the riches of the civil law; and I may say of him, having seen his mastery of both systems of jurisprudence, that he walked with them triumphantly, the one in one hand and the other in the other hand, in the path of a great jurist. . . . When, therefore, the question is asked, "Was he eminent as a lawyer?" I answer, No man more. Do you ask what was the secret of his eminence? I answer: It was diligence, profound study, and withholding his mind from the political excitements of the day.³¹

Even in those early days at the Charleston bar he devoted himself assiduously to whatever cases were intrusted to him; but, as some one has observed, it is rather curious, to say the least of it, that his reputation as a jurist should have been gained after his appointment to the Attorney-Generalship of the State rather than before his elevation to that post.

In 1822 Legaré was again a candidate for the Legislature, but was defeated. Running again, however, in 1824, he was elected, and kept his seat for the next six years by an ever-increasing number of votes. The times were the most exciting South Carolina had experienced since the days of the revolution. A firm believer in the doctrine of State Rights, he at first found himself on the side of the minority in the General

³¹ *Southern Quarterly Review*, October, 1843, pp. 351, 352.

Assembly. But the tariff acts of Congress were gradually transforming the politics of South Carolina and shattering the dominant party, which was locally known as the party of consolidation. One of its prime spirits, strange to relate, was John C. Calhoun. It was Judge William Smith who organized the Crawford faction in South Carolina—the party of State Rights and strict construction—and in 1825 succeeded in inducing the Legislature to pass the following resolutions.³²

Resolved: 1. That Congress does not possess the power, under the Constitution, to adopt a general system of internal improvements as a national measure.

2. That a right to impose and collect taxes does not authorize Congress to levy a tax for any other purpose than such as are necessarily embraced in the specific grants of power, and those necessarily implied therein.³³

3. That Congress ought not to exercise a power granted for particular objects to effect other objects, the right to effect which has never been conceded.

4. That it is an unconstitutional exercise of power on the part of Congress to tax the citizens of one State to make roads and canals for the citizens of another State.

5. That it is an unconstitutional exercise of power on the part of Congress to levy duties to protect domestic manufactures.³⁴

These resolutions passed the House by a vote of 73 to 38, and the Senate by a vote of 22 to 20. Legaré voted for the resolutions, and found his party transformed from a minority into a majority. Public sentiment throughout the State was undergoing a change and the tariff measures were becoming more and more unpopular.

The attitude of the Southern people under the lead of South Carolina at this posture of affairs can be easily understood, however much one may fail to approve of Calhoun's plan of a commonwealth referendum. Protesting vigorously against the principles and tendencies of the tariff law, they pointed out, among other objections to it, that as the South depended absolutely upon commerce on the largest scale any

³² Houston's "Nullification in South Carolina," p. 56.

³³ In 1824 the South Carolina Legislature was still National. The report of the Prioleau Committee denied the right of nullification, and cited the jurisdiction of the Supreme Court.

³⁴ Niles's "Register," Vol. XXIX., p. 203.

restrictions on their intercourse with foreign countries would inevitably affect their welfare. It was argued, too, that their staple productions, especially cotton, were among the comparatively few where slave labor could compete with free; that great revolutions in trade sometimes arose from apparently slight causes; that however far it might be from the purposes of the North and the West, it was possible for the tariff laws to cause the South the loss of its foreign markets, its only resource, and that the result of that loss would be poverty, loss, desolation, and the weakening of the entire framework of society.³⁵

When no signs of reducing the import duties were discerned, but on the contrary a decided determination to increase the tax, several pamphleteers continued the agitation and advocated radical views. Of these writers, two of the most influential were Dr. Thomas Cooper, President of the South Carolina College, and Robert J. Turnbull, of Charleston. The latter wrote under the *nom de plume* "Brutus," and contributed more than any other one man to bring about that revolution in public sentiment which impelled the State toward nullification.³⁶ Starting out with the theory that during the preceding six or seven years Congress had made more rapid strides toward consolidation than in the thirty previous years, he maintained that the plantation States were being unjustly taxed and made colonies in the interest of the North and West. "Brutus" urged that the South should oppose unwarranted powers, keep the slavery question out of Congress, and withdraw from the Union if necessary. The tariff act of 1828 completed the work. In town and parish meetings resolutions were adopted protesting against the measure, and on December 19, 1828, the Legislature passed strong remonstrances on the subject. It was in the same year that Calhoun turned to a study of the Constitution and issued his "Exposition," in which he formulated the doctrine of State interposition or nullification. During this civil

³⁵ Legaré's speech on the tariff, Twenty-Fifth Congress.

³⁶ "The Crisis; or, Essays on the Usurpations of the Federal Government." By Brutus. Charleston, 1827.

commotion Legaré was with the majority in so far as opposition to the tariff was concerned, but in no manner was in favor of a commonwealth veto.³⁷ He lacked boldness, however, and had to be urged on by his party.

During the next four years the battle was a fierce one between the State Rights and Union party on the one side and the State Rights and Free Trade party on the other—or, more clearly, the Union and Nullification parties. Among the influential leaders of the former were Legaré, Huger, Petigru, Drayton, O'Neill, Poinsett, Manning, and Richardson, while the Nullifiers were represented by such men as Turnbull, Harper, Rhett, Cheves, Simkins, Hamilton, and Butler. For several years the Union men were able to ward off the extreme views of the nullifiers, but the latter grew eventually strong enough to carry the State—largely through Georgia's attitude in regard to the Cherokees and Jackson's apparent acquiescence therein—call a convention, and take the steps that had been so long averted. It is only in recent years that the existence of a strong Union party in South Carolina at that time has been brought out. Even at the elections of 1832 it was able to poll 16,000 votes out of a total of 39,000. The position of Legaré and his coworkers at this period in the history of the State was a delicate one. Opposed to the tariff act of 1828—the so-called "Bill of Abominations"—they were no less opposed to the nullification theories of Calhoun and his followers. The common view of historians is that the nullifiers were brought to terms by pressure from Washington, but there is every reason for believing that it was the firm attitude of the Union men in the State that warded off the worst and brought about the changed attitude on the part of Gov. Hayne and his followers. This, moreover, seems to have been the real policy of President Jackson.³⁸ Legaré from the outset had set his

³⁷ *Southern Quarterly*, October, 1843, pp. 352-354.

³⁸ "My great desire is that the Union men may put Nullification and secession down in South Carolina themselves, and save the character of the State and add thereby to the stability of the Union."—*Jackson to Poinsett, January, 1833, Stille's "Poinsett," p. 60.*

face steadily against nullification. That he still retained the confidence of his constituents, however, is amply shown not only by his reelection to the Legislature in 1830 by a vote greater than that received by any other candidate, but also by his election in December of that year to the post of Attorney-General of the State.

Glad to escape scenes that were uncongenial to his tastes, Legaré found in his new position ample opportunities for developing his rare powers. It was while serving in this capacity that business took him to Washington to argue a case before the Supreme Court.³⁹ Here his talents attracted the attention of Edward Livingston, Jackson's Secretary of State, through whose influence the young Carolinian was appointed minister to Belgium. In his "Diary of Brussels" we have a faithful picture of the four years spent in that capital,⁴⁰ where he not only became a social favorite, but applied himself diligently to the study of Roman law. No less interesting are the letters he then exchanged with friends in Charleston, which throw a flood of light on the questions that were then agitating the public mind of America. Of these the following may not prove uninteresting:

[Petigru to Legaré.]

CHARLESTON, October 29, 1832.

My Dear Legaré: Since you left us, things have turned out as fools wished and wise men expected. The city election, with all our pains, was lost. Pinckney⁴¹ beat DeSaussure 160 votes. On the 8th and 9th we were defeated again. The whole Nullification ticket succeeded by an average majority of 130. The Governor's proclamation, like one of Napoleon's bulletins, was ready in anticipation of the victory, and was read in all the districts the day after the election, convening the Legislature on the 22d. You know it was always a doubt as to which was the Legislature between October and November; but, as Clayton says, "he that doubts is damned" nowadays. The convention bill was dispatched as soon as it could be read, and the Legislature adjourned on Friday; and the convention [Nullification] is to be elected and convened between this and the third Monday of November. Thus you see that we are on the gallop, and how long our demagogues will keep the saddle no one

³⁹ He was admitted to the Supreme Court January 15, 1829.—*Records of that court.*

⁴⁰ 1832-1836.

⁴¹ Henry L. Pinckney, editor *Charleston Mercury*.

knows. The spread of Jacobinical opinions has been terrible. We have only twenty-six members in the House, and fourteen in the Senate. The Union vote throughout the State is about 10,000 and the Nullification 23,000. Our country friends were terribly taken in. . . . Now the question comes whether our Constitution is anything better than the other ware of that kind which has been hawked about since 1789. What a pity that Lafayette was not able to add State rights to the other Republican institutions to which he was for making Louis Philippe a convert! The Union party here have determined not to support any ticket for the convention. Our friends in the Legislature who come from districts where they have the upper hand think differently. We mean to reserve ourselves for the ebb tide. How long we shall wait is a very serious question. If we had anybody at the head of affairs that could be depended on, it would be a fair chance yet. But the old man⁴² seems to be more than half a Nullifier himself, and we are compelled to rely for the best of our hopes on the doubtful allegiance of Georgia.⁴³ . . .

The drift of events, from another Union point of view, are here described.

[Charles Fraser to Legaré.]

CHARLESTON, January 30, 1833.

The present period is, in my opinion, one of more decided gloom than any that has yet occurred since the commencement of the war of parties. . . . The ordinance at once proclaims the violent and revolutionary character of nullification, and dissipates all idea of the peacefulness and constitutionality of the remedy. The Legislature, in carrying out the plans of the ordinance, did not go to the full extent contemplated by its advocates. There were some limitations on the test oath, or rather the time and occasion of administering it. Volunteering was substituted for the plan of subscription, which proposed to make liable to service in the Nullification ranks all between sixteen and sixty. Treason to the State was left undefined, although recommended by Gov. H[amilton], and the McC. bill to make opposition in arms to the State by a citizen punishable with death was not passed. But enough was done to show a bitter and vindictive spirit toward the Union party. In the replevin act the *capias in withernam* was evidently leveled at the collector, whose property they wish to make individually liable by way of mulct for adhering to the enemy. The test oath was designed to take from the Union men all their commissions, civil and military, so as to secure to the party the whole official influence of the State.⁴⁴

Hear also Legaré himself:

[Legaré to his sister.]

BRUSSELS, January 6, 1833.

The bad news from South Carolina has so damped and distracted me

⁴² President Jackson's attitude toward Georgia encouraged the Nullifiers in the belief that he sympathized with them.

⁴³ MS. letter of J. L. Petigru to Legaré.

⁴⁴ MS. letter.

that I take hardly any interest in what is going on here. . . . You can form no idea how delighted everybody is on this side of the Atlantic at the prospect of our downfall. All the personal attentions paid to me cannot soothe the wounded spirit I bear about me as an American citizen, and, little as I have participated in that exaggerated self-conceit which makes us regard ourselves as the wisest, highest of mankind in matters of government, I cannot bear to think of the demolition of our system. It is our only chance for peace and happiness, and I see nothing in the experience in any part of the world to diminish my horror of revolutions. We have just got the President's message, which has consoled me and rather cast down the monarchists, as I hear.⁴⁵

Note especially the following letter from Petigru to Legaré, dated at Washington, July 15, 1833:

You are surprised to see the date of this letter, or ought to be, for when one has lived the better part of his life at home nobody expects him to ramble abroad. But I have been very sick; . . . was kept within doors for a fortnight. During that time poor Brutus died, and the benevolent public was rather disappointed that there was one funeral only, for it was such an opening for a coincidence that they could hardly reconcile themselves to the prosaic matter of fact when I got well. . . . I came here the 12th, and go off this morning. Yesterday I waited on the President, was introduced by Mr. St. Clair Clarke. The old gentleman looked better than I expected, gave me a very gracious reception, inquired about Poinsett and Drayton, and regretted I was going to stay so short a time. I presume you know that Col. Drayton is going to expatriate himself. He leaves Charleston in this month for good, as we say, and will settle in Philadelphia. . . . In South Carolina nothing seems to be hoped for from reason. But Georgia and Virginia are the important points to be guarded now. It is clear that our Nullifiers mean to pick a quarrel with the North about the negroes. It will take some time, and many things will turn up in the meanwhile that we can't foresee either to favor or destroy their hopes. But nullification has done its work. It has prepared the minds of men for a separation of the States, and when the question is mooted again it will be distinctly Union or Disunion.⁴⁶

On his return to the United States, in 1836, Legaré was elected to Congress as a Union Democrat, his competitor being Henry L. Pinckney, Nullifier. Both Houses at that time contained a more than usually large number of distinguished men. In the Senate sat Webster, Calhoun, Clay, Rives, Wright, and others, while the House could boast of one ex-President, John Quincy Adams; three men destined to

⁴⁵ MS. letter.

⁴⁶ MS. letter.

NOTE.—In reading these letters one ought to bear in mind that they are *ex parte* and were written during very exciting times.

occupy the White House, Polk, Fillmore, and Pierce; with numerous other celebrities.⁴⁷ A bachelor like Legaré—in spite of several romances, he never married—found little difficulty in joining one of the various dining clubs⁴⁸ where members then took their meals, and which formed an influential factor in the politics of the day.⁴⁹

Early identifying himself with the group of Democrats including Rives, Talmadge, Clark, and Smith, of Maryland, who were opposed to Van Buren's financial policy, Legaré became one of the founders of the conservative party, whose members were to be found in all the States. Like many of his colleagues, he voted with the Whigs and was a veritable "mugwump." He was placed on the committees of commerce and of foreign affairs, and took an active part in the debates that ensued over the questions of the hour. In the problems that arose on the outbreak of the war between Texas and Mexico he displayed unusual knowledge of international relations in his remarks on neutrality, and was no less happy in his speech advocating a Southern naval station at Charleston. But his views on finance were not those of the majority in South Carolina. Legaré advocated the banking as opposed to the currency principle. All the newspapers of Charleston, however, supported the subtreasury plan of Van Buren, while the Legislature of South Carolina, May 31, 1839, passed resolutions declaring their approval of the subtreasury as essential to the welfare of the country.⁵⁰ It was added that any representative voting against it "pursues a course unjust to the interests of the State."⁵¹ Editor Cardoza, of the *Southern Patriot*, one of the Charleston newspapers, had objected to the views held by such men as Legaré, where-

⁴⁷ "In my long service I have not seen an abler Congress."—*Benton's Thirty Years*, Vol. II., p. 29.

⁴⁸ Sargeant's "Public Men and Events," Vol. II., pp. 86, 87.

⁴⁹ Legaré boarded at Mrs. Urick's, Fifteenth and G Streets. With him resided Rives, Talmadge, and Mason, all conservatives.—*Congressional Directory, 1837-1839*.

⁵⁰ Niles's "Register," Vol. 54, p. 339.

⁵¹ *Ibid.*

upon the latter, in a communication to a constituent, sets forth his own financial views, wherein he exhibits a wonderful knowledge of the subject.⁵² "Of two currencies, the less valuable," he declares, "will displace the other. The lean kine will, as D'Agnesseau expresses it, everywhere swallow up the fat."⁵³ In view of the opposition his course had aroused, it is not surprising to find that he was defeated at the elections of 1838 by Isaac L. Holmes. He then resumed with some success the practice of law at Charleston.

It was quite natural that Legaré should have supported Harrison in the campaign of 1840, and the speeches he made in behalf of the Whig candidate at Richmond and New York attracted wide attention. Nor is it surprising to find that on the President's death, April 4, 1841, and Tyler's accession to the presidency, Legaré was appointed Attorney-General. This occurred shortly after Tyler's Cabinet had resigned, with the exception of Webster, because of the President's attitude on the bank bill. There are strong reasons for believing that Tyler was endeavoring to construct a new party out of the conservatives.⁵⁴ The two great parties of the day were, of course, the Whigs and the Democrats; but the new President was careful to put only Whigs and conservatives into office, while the extra session of Congress, which convened May 31, 1841, reflected popular wishes in regard to financial measures. Nor should it be forgotten that various political groups throughout the country acted with the Whigs and contributed largely to their success at the polls. Among these were the anti-Masons; the State Rights men of the South, who disapproved of Jackson's removal of deposits; supporters of Jackson in Tennessee, Georgia, and other States, who opposed Van Buren; and many dissatisfied factions which had been called into existence by Jackson's financial vagaries.⁵⁵ The new President, like many other former

⁵² Legaré's "Letter to a Constituent," Niles's "Register," Vol. 53, pp. 229-270. The letter was afterwards published in the Charleston *Courier*.

⁵³ See Gresham's Law.

⁵⁴ Tyler's "Letters and Times of the Tylers."

⁵⁵ Williams's "Statesman Manual," Vol. III., pp. 1,396, 1,397.

Democrats, was especially opposed to that feature of Van Buren's policy that looked to an exclusive specie currency.⁵⁶

Legaré's appointment as Attorney-General was accordingly in line with the President's policy. It has been said, moreover, that he had not his equal for the position in the United States. His greatest work in this relation was the opinion he rendered on the power of the Secretary of the Treasury, under direction of the President, to assess duties under the act of 1833, the compromise tariff act having expired by limitation in the meantime. Legaré gave an affirmative answer,⁵⁷ a position generally assailed, even by such a man as Adams. Later historians, however, justify him in the matter.⁵⁸ While Attorney-General, Legaré furnished as many as one hundred and fifty written opinions, occupying in all upward of two hundred and sixty pages.⁵⁹ These cover an almost endless variety of topics, including such subjects as the removal of the Indians, interpretation of official duties, the construction of treaties, and the enforcement of the postal regulations. In one of these opinions he gives one of the best definitions of a newspaper ever rendered. Mr. Webster, moreover, called him into consultation during the negotiations regarding the Ashburton Treaty, and one or two important provisions in that convention appear to owe their origin to his knowledge of diplomacy. While Attorney-General he argued before the Supreme Court at least seven cases.⁶¹ The *Miranda* and *Acosta* cases involved a determination of the rights of those having Spanish grants to lands in Florida, whilst *Jewell v. Jewell*—said to have been one of his finest efforts—was a matrimonial case in which he displayed a most profound knowledge of family law. Meanwhile, on Webster's resigna-

⁵⁶ Kinley's "Independent Treasury System," pp. 25, 27.

⁵⁷ Wise's "Seven Decades of the Union," p. 201.

⁵⁸ "Opinions of the Attorney-General," Vol. IV., pp. 50, 57.

⁵⁹ Von Holst, "Constitutional History," Vol. II., pp. 244, 245.

⁶⁰ "Opinions of the Attorney-General," Vols. III., IV.

⁶¹ *Watkins v. Lessee of Oliver Holmes*, 16 Peters, 174; *Kelsey v. Hobby* (private case), 16 Peters, 200; *U. S. v. Miranda*, 16 Peters, 224; *U. S. v. Acosta*, 16 Peters, 483; *U. S. v. Breward*, 16 Peters, 217; *Ward v. U. S.*, 16 Peters, 336; *Jewell v. Jewell*, 16 Peters, 578.

tion from the Cabinet, Legaré was asked to act as Secretary of State *ad interim*, a work he performed in addition to that which already devolved on him.

It was while serving in this capacity that he went to Boston, in June, 1843, to join the President and the rest of the Cabinet officers in the unveiling of the Bunker Hill monument. On the day of his arrival there, however, he was seized with a severe attack of illness; and, notwithstanding the best medical attention, expired on the 20th at the residence of Prof. Ticknor, in Park Street, almost opposite the present Shaw monument. Thus passed away, in the forty-seventh year of his age, a man whose talents and application warrant the belief that the future had even greater things in store for him, and the universal outburst of sorrow that followed his death shows that, in spite of the unpopularity of the administration, there was at least one member of it whom the public not only honored and trusted, but even loved.

We have reserved until last some mention of Legaré as an author. His literary activity was mainly in connection with the *Southern Review*, which he and Stephen Elliott founded in 1827. On the death of Crafts⁶² Legaré took his place in Charleston, but, in spite of his scholarly attainments, it can scarcely be said that he possessed the originality and genius of that Southern writer. The first number of the *Review* appeared in February, 1828. Modeled after the English periodicals and designed to combat the centralizing tendencies on the part of the general government, the journal went through eight volumes, and expired when Legaré ceased writing for it.

In the numerous articles he contributed to the newspapers and periodicals of his day Legaré shows rare talent as well as unusual power of research, while his knowledge of history and political economy is everywhere apparent. Of his essays, the best are probably those on "The Democracy of Athens," "Demosthenes," and "Roman Legislation." In the last he shows a mastery of the civil law, and, with the exception of Edward

⁶² Trent's "Life of Simms," p. 511. Prof. Trent shows with great force the influence of slavery on politics and literature.

Livingston, probably knew more about the subject than any of his contemporaries. And while he has left no volume behind him, he seems to have been engaged in translating Hein-eccius into English at the time of his death. On the whole, therefore, one cannot escape the conviction that, had Legaré devoted himself exclusively to literature, he would have contributed something of value to the world of letters. Even as it was, however, he held before the vision of his contemporaries the ideals of a pure, high-minded statesman, a united country governed by a free and educated people. His views on finance, the civil service, the tariff, and the delicate questions arising in the field of diplomacy were such as to render them still valuable both to the student and the man of affairs. A graceful, finished speaker—an art he cultivated with extraordinary perseverance—he scarcely had his superior as an orator among the men of his day, unless one has Edward Everett in mind. Legaré always knew what he wanted to say, and said it earnestly, eloquently, but without affectation or bombast. His temperament, however, and the circumstances of his life were not calculated to make him a great leader in politics. Conservative, timid, shrinking at times, even his followers occasionally had to push him forward, and then only to find him looking wistfully back to the position he had so reluctantly quitted. Hence, in spite of his culture, his sense of honor, his versatility and charm of manner, his unwearying diligence, Legaré was not adapted either by nature or education to head a movement or buffet the storms of an active life. He lost his opportunity.

In his warm, cultured, gracious personality, as well as in his ardent devotion to the Union, he represented the South Carolina of the past, which was then being rapidly altered first by means of a burdensome tariff system and later on through the more fanatical aspects of the abolition movement. His opinions respecting slavery were those of the average man of his times, whether North or South. But slavery and the tariff were incompatible, and here we have an explanation of much that occurred subsequently on both sides of the Potomac. Had Legaré lived, therefore, at some other

time and under different circumstances, he might have gained even wider recognition; but the growth of the abolition movement crystallized his natural tendencies and drove him, as it did nearly every other Southern leader, in a direction little calculated to promote the growth of what was best in him. This we can understand. We can even go farther and wonder that the cause of human freedom was not commenced and carried to its final triumph with less of that violent denunciation and recrimination on both sides, which could scarcely fail to bring about sectional animosity and a ruinous war. Great Britain, for example, in dealing with the subject in her colonies, proceeded along lines that were no less just to the owners than to the slaves themselves, and thus avoided a bloody expiation for a policy the government itself had instituted. It did more. A course so humane and just enabled the English government to retain the affection of its West Indian subjects and ward off the worst features of a race problem. But in America events were to take another turn. The difficulties of the situation were heightened, moreover, by the prevalent notions concerning State sovereignty, to say nothing of the divergent interests of the two sections. No one appears to have grasped the significance of this aspect of the situation more thoroughly than Legaré, and no one was more helpless



